

PUBLIC LAW BOARD NO. 2774

Award No. 175
Case No. 175

PARTIES Brotherhood of Maintenance of Way Employees
TO and
DISPUTE: Atchison Topeka & Santa Fe Railway Company

STATEMENT
OF CLAIM:

1. That the Carrier's decision to assess Mr. W. A. Suddeth's personal record with 20 demerits was in violation of the Agreement and was unduly harsh.
2. That the Carrier be required to clear Claimant's record of the 20 demerits and no future references be made thereto."

FINDINGS

Upon the whole record, after hearing, the Board finds that the parties herein are Carrier and Employees within the meaning of the Railway Labor Act, as amended, and that this Board is duly constituted under Public Law 89-456 and has jurisdiction of the parties and the subject matter.

The record indicates that Claimant had been working as a Welder on a switch in the siding at Summerville, Texas on November 5, 1986. At that time the Train Dispatcher had granted him track time on the east switch which was to have expired at 11 a.m. and he was to be clear of the track at that time. At 11:07 a.m. (and this was admitted by all concerned) Claimant contacted the Train

Dispatcher and advised they would need an additional 10-15 minutes before he could release the track. Subsequently, Claimant was charged with violation of Carrier rules by failing to release the track before the expiration of the time granted. In fact the record indicates, in addition, that Claimant did not contact the Train Dispatcher within a few moments and ultimately did not release the track until after 12 noon. Following the incident, Claimant was afforded an investigation at which time he was found to have violated Carrier's rules and was assessed 20 demerits. In view of the fact that he had 50 demerits on his record at the time of this new infraction, his demerits exceeded the number 60, which mandated dismissal. Therefore, Claimant was dismissed following the assessment of the additional demerits for the incident involved in this dispute.

Carrier's position was that Claimant was properly notified of the charges, was afforded a fair hearing and was found guilty of the charges, and the discipline assessed was warranted and justified.

The Petitioner took the position that Carrier's action in this case was unduly harsh and in abuse of discretion. The particular infraction did not warrant the discipline which was levied. The Claimant herein was having problems, according to Petitioner, with his completing his job assignment and with his truck. He needed additional time in order to take the truck off the track. He was not granted that time and did indeed, as the record

indicates. take excessive time for that purpose. However. Petitioner feels it was not a serious problem.

As the Board reviews the record, it appears that Claimant was guilty of the charges leveled by Carrier and was afforded a fair hearing in that regard. Having been found guilty, the discipline of 20 demerits was not excessive. Therefore, the conclusion reached by Carrier was supported by the record and should not be disturbed. Unfortunately for Petitioner and Claimant the new demerits were sufficient to trigger his dismissal. That also cannot be disturbed under the Carrier's rules.

AWARD

Claim denied.



I. M. Lieberman, Neutral-Chairman



C. F. Foose, Employee Member



G. H. Garmon, Carrier Member

Chicago, Illinois
October 11, 1988